87-2028

NO.

IN THE

Supreme Court of the United States

October Term, 1987

HERBERT A. COCHRANE, *Pro Se,*

Petitioner,

against

WILLIAM R. CONTE, M.D., *et al.*,

Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

HERBERT A. COCHRANE
Pro Se Petitioner
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Questions Presented for Review.

1. Whether State Courts can convene while willfully and knowingly prohibit the accused from attending, and he is interned nearby.

2. Whether such Special and Secret State Courts can fabricate records of criminal activity, and intent to commit further felonies; under the transparent pretext of medical or scientific proceedings.

3. Whether one can then be interned in a State Hospital as a fit subject for involuntary drug experimentation, as a result of being involuntarily diseased (mentally) by an Order from such Special and Secret Courts.

4. Whether the accused can or must be permitted inside the room where the Special and Secret Court convenes.

5. Whether the Special and Secret Court should be permitted to send inherently dishonest attorneys to the accused in the State Hospitals, for the sole purpose of confiscating the in-process defense papers, Discovery papers, etc., under the guise of prosecuting the case for the accused.

6. Whether inherently dishonest Court appointed attorneys should be permitted to prevent Discovery procedures, Depositions, the prosecution of the case in general, and the defense of the accused.

7. Whether State Hospitals can insist on drug acceptance by the accused, after obvious, willful and knowing fabrication of Court records, Hospital records, criminal charges.

8. Whether it is a legal procedure to intern the accused for 41 days without permitting the accused to have access to outside communication systems for inquiries concerning Discovery, Attorneys, filing rebuttal papers, transferral of case to Federal Court, etc.

9. Whether the accused can expect that recourse to law and administration is a right or a privilege, while interned, or not interned.

10. Whether a preponderance of defense evidence can be simply ignored by the Courts, and dismissed without indicating the basis for its decision making on the EXHIBITS.

11. Whether written examinations by the accused, certifying as to intelligence, competence, etc., should be, or must be considered as a necessary part of the medical data sheets, particularly in the accused's own hand writing.

12. Whether a major Federal Statute, 18 U.S.C. §921, *et sequitur,* can be considered as violated in the willful and knowing fabrication of State Court and Hospital records; yet, such fabricated criminal charges can not be considered for rebuttal litigation purposes in subject matter jurisdiction for Federal Courts.

13. Whether a properly registered firearm under 18 U.S.C. §921, *et sequitur,* can be fabricated as criminal activities, with intent to engage in further felonies, by Order of the Special and Secret Courts.

14. Whether criminal medical practices, not medical malpractice, can be permitted by Special and Secret Courts, their State Hospitals and Staffs; exclusive of, or barring absolute privilege, which would only apply to medical malpractice, as opinion testimony, etc.

TABLE OF CONTENTS

PAGE

Index to Appendix.

PAGE

Cases Cited

Federal Codes Cited

United States Constitution Cited

Washington State Constitution (1889) Cited

Federal Rules of Civil Procedure Cited

PAGE

Washington State Codes Cited

PAGE

PAGE

Other Authorities Cited

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The Petitioner prays for a scholarly inspection and consideration, since the Ninth C.C.A. has so far departed from the accepted and usual courses of judicial proceedings, and so far sanctioned such a departure by the District Court as to call for an exercise of this Court's power of supervision, and further prays that a writ of certiorari shall issue.

Opinions Below.

All of the opinions below failed to particularize, or much less, even mention the preponderance of evidence set forth by this Petitioner. Their silence, obviously indicates the unimpeachable quality of the Exhibits.

Their state of mind is well exemplified in their dismissal Orders.

The fabricated charges of the Respondents have been demonstrated as worthless and unsubstantiated, with no genuine issue of material fact. It is quite obvious then, that the Courts below wish this Petitioner to be so charged, interned, and recorded; since they have failed to indicate any basis for their decisions of "lack of subject matter jurisdiction."

The Dismissing Orders are presented on the Appendix pages:

Jurisdictions.

1. United States Supreme Court:

28 U.S.C. §1254 (1).
18 U.S.C. §921, *et sequitur.*

2. Ninth Circuit Court of Appeals:

28 U.S.C. §1291.

3. U.S. District Court, Western District of Washington, at Seattle:

18 U.S.C. §921, *et sequitur.*
28 U.S.C. §1331 (a).
28 U.S.C. §1332 (a), (1), and (c).
28 U.S.C. §1343 (1), (2). (3), and (4).
28 U.S.C. §1441 (a), (b), and (c).
28 U.S.C. §1443 (1) and (2).
28 U.S.C. §1446 (a) and (c).
28 U.S.C. §2201.
28 U.S.C. §2202.
42 U.S.C. §1985 (2) and (3).
42 U.S.C. §1986.
42 U.S.C. §1988.

U.S.C. §1983 was omitted in an attempt to bar the State Attorney General from affording free Counsel for

the Respondents. Petitioner filed the litigation under the basis of personal and vicarious liability, barring collective liability.

On February 26, 1980, this Petitioner presented a Notice of Motion to Strike, and a Motion to Strike, so that 42 U.S.C. §1983 could be argued before the Court as to its precise necessity. The Court simply ignored the Notice of Motion to Strike, as well as the Motion to Strike itself. This was how the Court below dealt with "subject-matter jurisdiction."

It should also be observed that violations of the Washington State Constitution (1889) is included among the charges.

Article 1: Declaration of Rights.

Sections. 2, 3, 5, 6, 7, 8, 9, 10, 12, 13, 21, 22, 24, 29, and 32.

These Section numbers have been increased in number from the number listed in the Complaint (2a).

Federal Rule of Civil Procedure 57 is submitted for Jurisdiction.

Federal Rule of Civil Procedure 65 is submitted for Jurisdiction.

United States Constitution.

Article VI, Second Paragraph.

Amendment Article IV.

Amendment Article V.

Amendment Article VI.

Amendment Article VII.

Amendment Article IX.

Amendment Article XIII, (Sect. 1).

Amendment Article XIV, (Sect. 1).

Washington State Codes.

R.C.W.A. 4.16.190. (Old).

R.C.W.A. 4.36.040 (Old).

R.C.W.A. 4.36.120 (Old).

R.C.W.A. 9.44.020 (Old).

R.C.W.A. 9.44.030 (Old).

R.C.W.A. 9.44.040 (Old).

R.C.W.A. 9.44.060 (Old).

R.C.W.A. 9.62.010 (1) and (2) (Old)

R.C.W.A. 9.72.090 (Old)

R.C.W.A. 9A.28.040 (3)b and c (Restructured).

R.C.W.A. 9A.40.010 (1) (Restructured)

R.C.W.A. 9A.40. 020 (1)c and d, (2) (Evidently new)

R.C.W.A. 9A.40.040 (1) and (2) (Evidently new)

R.C.W.A. 9A.72.060 (Evidently new)

R.C.W.A. 9A.72.080 (Restructured).

R.C.W.A. 9A.72.120 (a) and (b) (Restructured).

R.C.W.A. 10.77.020 (Evidently new).

R.C.W.A. 10.77.050 (Evidently new).

R.C.W.A. 10.77.120 (Restructured).

R.C.W.A. 10.77.130 (Restructured).

R.C.W.A. 10.77.140 (Evidently new).

R.C.W.A. 10.77.210 (Evidently new).

R.C.W.A. 10.77.240 (Evidently new).

R.C.W.A. 71.05.060 (Evidently new).

R.C.W.A. 71.05.080 (Evidently new).

R.C.W.A. 71.05.120 (Evidently new).

R.C.W.A. 71.05.150 (Evidently new).

R.C.W.A. 71.05.155 (Evidently new).

R.C.W.A. 71.05.210 (Evidently new).

R.C.W.A. 71.05.230 (Evidently new).

R.C.W.A. 71.05.280 (Evidently new).

R.C.W.A. 71.05.300 (Evidently new).

R.C.W.A. 71.05.310 (Evidently new).

Entire Chapter R.C.W.A. 10.77.010; particularly 10.77.090.

This entire Chapter has evidently been restructured from R.C.W.A. 10.76.010 to 10.76.080.

R.C.W.A. 72.23.030. (Restructured).

R.C.W.A. 72.23.170. (Restructured).

Statement of the Case

The Complaint was filed in the Seattle, Washington District Court with the names and organizations of all intended defendants, known to the plaintiff at the time, both residing in Washington State and other States (Petition Appendix pages 3a to 5a). In such a fashion, the District Court was immediately informed of the scope and nature of the case. Of course, in Washington State, only Washington State Defendants could be prosecuted by this Petitioner; however, it clearly indicated to the Court, the detailed culpability of others, in this document type case.

Through additional moving papers by this Petitioner, the precise U.S. Codes involved were set forth before the Seattle District Court.

Defendant Peters was located by this Petitioner in Phoenix, Arizona. The Complaint filed against him there, referred to him only; with the exclusion of all of the other Defendants.

This Petition for Writ of Certiorari is, of course, limited to Washington State Respondents. Respondents no longer licensed to practice medicine in Washington State are Riley, Klein, Arenas, and probably others. The Since deceased Defendant Peters did not have his medical license cancelled in Washington State. The whereabouts of Defendants Conte and DiFuria is Washington State, but others is unknown, since no Discovery Orders were permitted by the Seattle District Court.

Volumnious documentation demonstrating the criminal practice of medicine by the Respondents are filed with the Seattle District Court.

The specific dismissing Orders by the Courts below held that this Petitioner had "lack of subject matter jurisdiction" (20a, 21a, 29a, 34a, 37a, and 42a). A trunk full of documents was, and is presented as the preponderance of evidence on the criminal practice of medicine.

In the Courts below, both State and Federal, Petitioner's moving papers impeached all charges against him by Respondents. Special and Secret Courts are, and always have passed for judicial proceedings, prior to the accuseds internment, and Washington State is no exception (2a, 9a, 10a, and 11a).

Petitioner was interned incommunicado for 41 days at Fort Steilacoom, Washington State, after a convening of a Special and Secret Court in Seattle; at which "meeting", this Petitioner was not allowed to be present. What few personal items the servants of the Court and others did not want for themselves, they returned to the prisoner. After 41 days of this Night and Fog internment procedures by the Special and Secret Court, the Respondents interned this Petitioner in a semi-locked ward. Once

again, this Petitioner attempted to penetrate the Night and Fog procedures of the Court and the Respondents. And once again, the Night and Fog procedures returned after a few hours visit to the Tacoma City and County Law Library; as well as a purchasing visit to a law stationary store. One of the lay judges from the Special and Secret Court in Seattle sent a Bertram Metzker as Counsel for this Petitioner. *Pro Se* filing of papers was absolutely forbidden, as well as, any further excursions to law offices, library, etc. The blame for this Night and Fog procedures was fabricated so that the United States Secret Service would appear as the demanding party, or the organization that,was to blame for the Night and Fog decree. The only activity that this attorney performed was to confiscate this Petitioner's impeaching papers, typed discovery Forms (written Instruments), and Habeas Corpus Forms. In this fashion, the lay judge from the Special and Secret Court prevented this Petitioner from prosecuting the case, by preventing his moving papers from being stamped as received, docketed, lodged, filed, etc., in the Superior Court located in Seattle; as well as the Court in Tacoma where this Petitioner was working with a Judge Johnson. Tacoma is close to Fort Steilacoom, and therefore easier to travel to or communicate with on such matters. Bertram Metzker.L.L.D. was a resident of Seattle, where the Special and Secret Court convenes, with the lay judges.

This Petitioner, having no recourse to law or administration under the Night and Fog decree, took un-authorized leave about 2½ years later. Prosecuting the case would have to be accomplished from outside the Fort. More inherently dishonest attorneys were encountered by this Petitioner in attempting Discovery procedures in the Special and Secret Court of Seattle. The Seattle Lawyer Referral Service suggested a Dan. Smith, L.L.D., who lo-

cated the confiscated papers in the files of the Seattle Legal Aid Society. The Habeas Corpus Forms were stolen. The lay judges are quite obviously the influencing element in this document type case. The common plan, or conspiracy is set forth by the non-accidental nature of these procedures, and by the willful and knowing fabrications of the Respondents, Secret Court, etc. The non-accidental nature of the fabrications are particularized in the State medical records. There are absolutely no data pages to substantiate any of the Respondents records or Court records. This is simply because no transcripts, exams, interviews, evaluations, etc., were ever presented by the Special and Secret Court or Respondents to this Petitioner.

Amongst some of the property stolen from the prisoner was his Federally registered firearm, serial no. 9066a. The Federal registration papers were included with it.

How Federal Questions are Presented

Federal jurisdictions can be said to be presented on three (3) main issues of subject matter. These three (3) issues of subject matter are particularized in other sections as; Statement of the case, Importance, etc.

1. 18 U.S.C. §921, *et sequitur.*

This issue is mentioned in Petitioner's Complaint page 2a, Paragraphs two and three; as well as, other sections of this Petition. As this Petitioner understands it, this is a Federal Code which should be known to Federal Court Judges. This is a simple matter of robbery of the prisoner's property, under the guise of "law and order", intent to engage in the commission of felonies, etc.

2. Removal from State Court.

28 U.S.C. 1343 (1), (2), (3), (4).
28 U.S.C. 1441 (a), (b), and (c).
28 U.S.C. 1443 (1), and (2).
28 U.S.C. 1446 (a), and (c).

A preponderance of evidence has been Indexed and filed with the District Court in Seattle, documenting the inherently dishonest Courts and attorneys below. The judicial proceedings in the State Courts consist of Special and Secret Courts, where the accused is not permitted to attend; and the Court willfully and knowingly prepare fabrications of crimes, mental illness, etc. This is immediately followed by internment in State hospitals, where a Night and Fog disappearance is accomplished by incommunicado regulations. Here, the accused is considered as a fit subject for involuntary medical experimentation with 3-Ring compounds, 3-cyclic compounds, etc. This is generally discussed in the Complaint, although it is mixed with the representative sampling of the Foley Square Defendants in New York City (1a to 14a).

3. Federal and State Actions Mandatory.

The citation particularizing this issue is: *Barrett v. United Hospital, et al., 376 F. Supp. 791.* The requirement or primary necessity for "civil rights" cases is that Federal and State involvment is required for prosecution. Not only is Federal and State involvment manifested in the instant case, but City involvment is also encountered.

REASONS FOR GRANTING THE WRIT.

ARGUMENT.

POINT I.

The preponderance of evidence submitted to the Seattle District Court proves that the State Courts and their attorneys are inherently dishonest.

Petitioner's Exhibits presented to the Seattle District Court, and the Ninth C.C.A. demonstrate that they are absolutely unimpeachable, in this document type case. Neither Court nor Counsel ever attempts to even rebut their accuracy. Their silence is proof of admission as representative samples of what transpires for State Courts and government medical know-how. The Defendants are always uninformed and misinformed, and hence are easily deceived on due process, drugs, etc. The Federal Codes for removal from State Courts are well applied.

POINT II.

The Federal Courts below claim that this Petitioner "lacks subject-matter jurisdiction".

The Federal Courts below have had ample opportunity to particularize their basis in fact for their decision making. Petitioner has listed twelve (12) Federal Codes which directly apply to the facts of the matter on Federal Jurisdiction.

POINT III.

The Federal Courts below are attempting to substitute the ruse of 42 U.S.C. §1983 for 18 U.S.C. §921 *et sequitur.*

According to their "lack of subject-matter jurisdiction" then, §921 properly belongs in either Juvenile Hall or some other undisclosed "forum". This Federal Code alone, is "subject-matter jurisdiction".

POINT IV.

Federal, State and City actions are involved in this "civil rights" document type case.

The very basic requirement for "civil rights" cases pertains to both Federal and State involvement in the action (*Barrett v. United Hospital, 376 F. Supp. 791*). Federal, State and City actions permeate every aspect of the instant case. The Federal Courts below totally ignore any and all references to this gravamen type issue.

Gun licenses are issued on the Federal and City or State levels, which actions meet all the requirements of this aspect. All other Federal and State licenses are included for this Petitioner. Petitioner can not function in society with the involuntary infliction of disease by the State.

POINT V.

The state of mind of the Ninth C.C.A.

The state of mind of the Ninth C.C.A. is presented on Appendix pages 32a, 38a (last 3 paragraphs), 39a, 40a, and 43a. This indicates abuse of discretion in a discrimi-

natory proceeding, which amounts to a denial of the right to bring civil suit.

The Ninth C.C.A. goes to great lengths to present the impression that this Petitioner has unreasonably "refused", etc., to rely solely upon 42 U.S.C. §1983 (34a). The absurdity of this entire page is well documented on page 12, lines 16 to 24 of this Petitioner's Brief to the Ninth C.C.A. Motion to Strike, etc., etc.

POINT VI.

The Department of Health and Human Services is a national organization, which is headquartered in the White House.

Secretary of Health and Human Services
The White House
1600 Pennsylvania Avenue
Washington, D.C. 202-456-7639

U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 202-655-4000

Human Services have regional offices in all of the States, where they distribute their funding to State Hospitals, etc.

The applicable Federal Code here is probably, 28 U.S.C. §1332 (c).

POINT VII.

A diversity of state citizenship exists.

The Petitioner is a citizen of the State of New Jersey, and the Respondents, or who are left of them, are citizens of Washington State.

Conflicts.

The Ninth C.C.A. presents the reader with amazing changes in their state of mind, or views, by issuing conflicting Orders (22a of April 8, 1983 and 33a of January 22, 1988). The amazing conflict, or change in state of mind is demonstrated on 32a, 34a, 35a to 40a, and 43a.

In the past, the United States Supreme Court has given particular attention to important issues of national interest.

Aldinger v. Howard, 427 U.S. 1, 3;
Fuller v. Oregon, 417 U.S. 40, 42;
New York v. Saper, 336 U.S. 328, 329;
United Brotherhood v. United States, 330 U.S. 395, 400;
Shapiro v. United States, 335 U.S. 1, 4;
Minnesota Mining Co. v. New Jersey Wood Co., 381 U.S. 311, 314;
Commissioner v. Bilder, 369 U.S. 499, 501;
Massachusetts Trustees v. United States, 377 U.S. 235, 237;
Maryland v. United States, 381 U.S. 41, 43;
Linkletter v. Walker, 381 U.S. 618, 620;
United States v. Calamaro, 354 U.S. 351;
Patterson v. United States, 359 U.S. 495.

Conflicting judgments with the Courts below are also found in Corpus Juris Secundum and West's Federal Practice Digest 2d., Volume 40, Federal Courts, Key 781.

West's Key 812, page 108 commences, Abuse of Discretion, which ends on page 110.

West's Key 813, page 110 commences, Allowance of remedy and matters of procedure in general, which ends on page 114.

The majority of West's citations apply to accepted procedures similar to the instant case, and conflict with the opinions below.

36 Corpus Juris Secundum §§ 297 (55) - 297 (56)
Federal Courts, pages 1194, 1196, 1197 and 1198.

Importance.

Petitioner left internment at Fort Steilacoom on April 24, 1969. On or about September or October 1971, this Petitioner retained an attorney, Daniel Smith, L.L.D., recommended by the Lawyer Referral Service in Seattle, Washington. The citation cases relied upon by this Petitioner were shown to this attorney, which are devastating and impeaching in Washington State. Upon reading them and referring to them as this Petitioner's "intent and purposes, he promptly disappeared from sight for a "1 year trip abroad," as he expressed it. His professional associates then refused to process even further Discovery matters. For this service, about $1200, from a retaining fee of $1500 was expended. During this time, there was a general and deceptive re-structuring of the Washington State Codes and Superior Court Rules; together with, what evidently appears to be a new series of Codes for Washington State.

The Superior Court procedures documented by this Petitioner demonstrated the following preponderance of evidence;—

1. On Friday morning, September 2, 1966, a Special and Secret Court convened with a lay judge presiding, in King County Hospital (Horborview Hospital), Seattle, Washington. This Petitioner was admitted to their "meeting," but only to identify himself, and was then asked to leave while their professional staff prepared their "written findings of fact and conclusions of law." This Petitioner answered no questions, discussed nothing, and absolutely took no part whatsoever in their "meeting." Their verdict: Immediate internment at Fort Steilacoom (State Hospital). No Court Reporter or official tape recording was present, so absolutely no transcript of the "meeting" could be secured. The lay judges forbid the accused from acquiring copies of the "Physicians Report and Certificate of Examination," which passes for their medical or scientific know-how on prisoners whom they never have had any discourse with, or even conducted proper inquiries with, on matters of fact.

2. Their Night and Fog procedures was next, whereby the accused was immediately interned at Fort Steilacoom, under the guise of medical treatment for an involuntary infliction of disease (mental). There, all contact with the outside world was prohibited for at least 41 days, or until a semilocked ward was permitted. All during that time, and after, the accused was involuntarily subjected to 3-Ring compounds, their analogues, 3-Cyclic compounds, etc., all for their involuntary medical experimentation. There was no recourse in law or administration for the accused. Only inherently dishonest attorneys and Courts were available to prisoners.

The re-structuring, and evidently the formulation of a new series of Washington State Codes and Court Rules, during the very mysterious disappearance of the elusive attorney, Dan Smith, in the early 1970's, were supposed to give the impression or reassurances that the Special and Secret Courts, together with their Night and Fog procedures, were a thing of the past. Absolutely nothing could be more further from the facts of the matter. At about this time, involuntary servitude was abolished in State Hospitals, on a nation-wide basis.

Such impressions or reassurances were, and are grossly misleading. A sampling of the relevant Codes in the instant case, demonstrates why and how the mysterious and elusive Dan Smith, L.L.D., together with the back-room Court House crowd, found immediate interest in applying veneer:

R.C.W.A. 4.16.190 (Old).
R.C.W.A. 4.36.040 (Old).
R.C.W.A. 4.36.120 (Old).
R.C.W.A. 9.44.020 (Old).
R.C.W.A. 9.44.030 (Old).
R.C.W.A. 9.44.040 (Old).
R.C.W.A. 9.44.060 (Old).
R.C.W.A. 9.62.010 (1) and (2) (Old).
R.C.W.A. 9.72.090 (Old).
R.C.W.A. 9A.28.040 (3)b and c (Restructured).
R.C.W.A. 9A.40.010 (1) (Restructured).
R.C.W.A. 9A.40.020 (1)c and d, (2) (Evidently new).
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R.C.W.A. 9A.72.120 (a) and (b) (Restructured).
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R.C.W.A. 71.05.155 (Evidently new).
R.C.W.A. 71.05.210 (Evidently new).
R.C.W.A. 71.05.230 (Evidently new).
R.C.W.A. 71.05.280 (Evidently new).
R.C.W.A. 71.05.300 (Evidently new).
R.C.W.A. 71.05.310 (Evidently new).

Entire Chapter R.C.W.A. 10.77.010; particularly 10.77.090. This entire Chapter has evidently been restructured from R.C.W.A. 10.76.010 to 10.76.080.

R.C.W.A. 72.23.030 (Restructured).
R.C.W.A. 72.23.170 (Restructured).

The New R.C.W.A. 72.23.030 claims the State Hospital Superintendent's interest in "dietetic treatment of the Patients." From personal experience, this Petitioner has a violent egg allergy, it is inconceivable that any of the State Hospitals will prepare egg-free breakfasts or anything else. The accused will be told absolutely nothing, but if there is a luncheonette on the grounds and he has funds of his own, then he can eat there. He will be told not to leave the grounds. His own funds will also be siphoned-off for his very own "treatment."

Absolutely none of these Codes spell-out or particularize any penalties or imprisonments whatsoever to violators of these Codes (12a). A contrast example in this Codification is R.C.W.A. 71.05.120 and 72.23.170.

The Washington State Superior Court Rules went through the exact same deceptive restructuring, with the exact same results of misleading and misinforming appearances. Special and Secret Courts with their Night and Fog procedures abound in Superior Courts—Mental Proceedings Rules (M.P.R.).

Particularized: MPR 2 (g) and (h). MPR 2.3
MPR 2.4 MPR 3.3 (b)
MPR 3.4

Civil Rules— 12, 26-37, 38-53.

One will observe that absolutely no Court Reporter or official tape recorder is present, so that transcripts can be prepared and supplied to the accused. There is absolutely no stipulation that the prisoner must be present while the "meeting" is "done in open Court." See R.C.W.A. 71.05.120, Collateral References. Proof of Facts and Annotations, page 299.

Again, one will observe that MPR 2.3 states that an attorney can view and copy the file—probably in the adjacent law library; however, it does not state whether the accused can inspect the file. The lay judges have always forbidden any files to be purchased by the accused. This activity is set forth in the Statement of the Case. The lay judges have always directed that the attorneys, either Court supplied or retained by the accused, never let the accused inspect the files. The most that the accused can expect is a stripped file. However, when and if the ac-

cused prepares a Superior Court Application and Order, with combined Affidavit, the Judges will usually oblige; probably only if the accused has retained an attorney.

The only way that the accused can be sure that he is not copying a stripped file, is that Court Clerk's always number, and or Docket Number the papers. However, this numbering system does not usually apply to State Hospitals or their Agency files.

Again, quite obviously then, the accused have very little, or no chance for Discovery, Interrogatories, Depositions, etc. These procedures can all be perpetrated under the guise of accidental nature, oversight, etc., since no provisions for imprisonment, penalties, etc., have been incorporated in the deceptive restructuring and newly prepared Codes. The Special and Secret Courts with their Night and Fog procedures remain totally undisrupted and ready for immediate implementation.

Absolutely no adequate defense can be prepared against these Draconic laws when these Special and Secret Courts convene to fabricate criminal charges, and criminal falsification of government records; together with, State Hospital records.

Again, one will observe that no penalties, or imprisonments are mentioned, imposed, or enacted for the protection of the accused's property from being looted; while the accused is interned under Night and Fog, etc.

The gravamen of this action is, of course, the criminal frauds perpetrated by a judicial system which encourages criminal abuse of judicial process, discriminatory proceedings, and abuse of discretion; since no prohibition

clauses are particularized in the Codes, both restructured and apparently newly enacted.

The Oath of Admission to the Bar in Washington State is nothing short of amazing and incredible. One would have to read it to actually believe that such dedicated or fanatical professionalism exists in U.S. judicial organizations.

This fanciful and hypocritical mythology of dedicated professionalism was demonstrated by official correspondence to this Petitioner from the Washington State Bar Association.

A lawyer has special knowledge of the perverting effect upon the dispensation of justice not only of his own acts, but of the acts of others of which he has knowledge—knowledge as an ultimate fact. Also, a lawyer entrusted by his very calling with a sacred duty must of necessity offer strong proof indeed in mitigation of the prostitution of that duty.

> *Layne & Bowler Corp. v. Western Well Works,* 261 U. S. 387, 393;
> *Rice v. Sioux City Cemetery,* 349 U. S. 70, 79.

The Courts below endorse the denial of the right to bring civil suit, as a result of their dismissals without basis or particularization.

The Respondents and the Tribunals below are charged with using their offices and exercising their powers with the knowledge and intent that their official acts would result in this Petitioner and others being judged and diagnosed as fit subjects for involuntary experimentation with 3-Ring compounds, 3-Cyclic compounds, their analogues,

etc. This is under the transparent pretext of disease (mental), being involuntarily inflicted on the accused by Special and Secret Courts, Hospital records, etc.

Assignment of Errors.

1st. The Courts below erred by completely ignoring the "jurisdictional matter" of 18 U.S.C. §921, *et sequitur.*

2nd. The Courts below erred by ignoring the preponderance of evidence presented to the Courts below, documenting inherently dishonest State Courts and Attorneys.

3rd. The Courts below erred by not extending judicial notice to the trunk full of Petitioner's documents demonstrating their probative value, for the application of this Petitioner's twelve (12) Federal Statutes of Federal jurisdiction.

4th. The Courts below erred by not stating that this Petitioner lacked any recourse in law or administration while interned at Fort Steilacoom, for involuntary medical experimentation with 3-Ring compounds, 3-Cyclic compounds, their analogues, etc.

5th. The Courts below erred by not particularizing why Petitioner's Federal Statutes did not apply for Removal to Federal Court on the charges against the Respondents; therefore, supplying no basis in fact for their decision making of "lack of jurisdictional matter."

6th. The Courts below erred by not indicating that the Respondents had no basis in fact, according to law,

to file official documents against this Petitioner, claiming criminal activities, which were and unauthorized by law and therefore illegal and void.

7th. The Courts below erred by not indicating that the Respondents had no basis in fact, according to law, to file official documents against this Petitioner, claiming them to be diagnostic psychiatry documents, which were and are unauthorized by law, and therefore illegal and void.

United States v. Atkinson, 297 U.S. 157, 160, quoted in *Silber v. United States,* 370 U.S. 717, 718, and in *Connor v. Finch,* 431 U.S. 407, 421, n. 19;
Sibbach v. Wilson & Co., 312 U.S. 1, 16;
Blonder—Tongue Laboratories, Inc. v. University of Illinois Foundation, 402 U.S. 313, 320, n. 6.

CONCLUSION.

For all of the foregoing reasons, this Petition is respectfully submitted, hoping that sufficient matters of fact have been set forth, and that a Writ of Certiorari, shall issue.

Dated: June 7, 1988.

Respectfully submitted,

HERBERT A. COCHRANE
Pro Se Petitioner
P.O. Box #9071
Greystone Park, N.J. 07950

APPENDIX.

Complaint.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
SEATTLE, WASHINGTON

DOCKET NO. C80-145

CIVIL ACTION

HERBERT A. COCHRANE, *Pro Se,*

Plaintiff,

vs.

WILLIAM R. CONTE, *et al.,*

Defendants.

The undersigned Plaintiff, Herbert A. Cochrane, charges that the Defendants herein participated in a common design or conspiracy to commit and did commit depraved, or unlawful medical practices, upon the Plaintiff and others, as defined in the U.S. Constitution, Article 1, Sec. 8, paragraph 10: "To define and punish Piracies and Felonies committed on the high Seas, and Offenses against the law of Nations." Also, included as violated is

Article VI, second paragraph; Amendment Articles IV, V, VI, VII, IX, XIII (sec. 1), and XIV (Sec. 1). Washington State Constitution, Article 1 was violated in Sections 2, 3, 5, 7, 8, 9, 10, 12, 22, 29, and 32. New York State Constitution, Article 1 was violated in paragraphs 8 (criminal prosecution for libel), 11, and 12.

Federal jurisdiction in the instant case is embodied also in 18 U.S.C., Chapter 44, duly enacted by the U.S. Congress. The Treasury Department, Bureau of Alcohol, Tobacco, and Firearms, issued an ownership registration to the undersigned Plaintiff, in August 1966 for a: Dryse Solothurn, shoulder-operated, automatic and semi-automatic gun, Serial No. 9066a, manufactured in 1942, caliber 7.90 mm. Issuance was to a chemist for target shooting on an out-door range belonging to a local Washington gun club. The ownership papers being in perfect order with "the supreme law of the land."

Most of the defendants named below charged this Plaintiff with not only unlawful possession of the herein named gun; but with a criminal felony record of assault with firearms, and criminal intent to launch further felony assaults, while armed.

Defendants unlawful activities included, but were not limited to, fabricated evidence and suborned witnesses, while engaged in their depraved, or unlawful governmental medical practices. All these depraved, libelous, and criminal charges by the herein named defendants were presented to Special and Secret Courts in New York and Washington States. Said Courts affirmed these depraved, or unlawful governmental medical practices, for the involuntary infliction of disease (mental) upon the Plaintiff; together with, involuntary subjection to U.S. manufactured 3-ring compounds upon the Plaintiff, and others. Said Special and Secret Courts in New York and Washington States are therefore deemed as incompetent; and Fed-

eral jurisdiction is further held in the instant case, where transparent pretexts in defendants claims of Plaintiff and others being fit subjects for their involuntary experimental activities. These are set forth in Counts one, two, and three of this civil action complaint.

The persons accused as guilty of these unlawful activities and accordingly named as defendants in this case are—

WILLIAM R. CONTE, M.D.; 1966 Chief of the Division of Mental Health in Washington State.

LAWRENCE HUNTER LYTLE, M.D.; 1963 Resident Surgeon at Staten Island Hospital, Staten Island, N.Y.

MARTIN WHITE, M.D.; 1963 Consulting Psychiatrist to the Special and Secret Court at Bellevue Psychiatric Hospital, New York, N.Y.

RANDOLPH A. WYMAN, M.D.; 1963 Supervising Medical Superintendent at Bellevue Psychiatric Hospital, New York, N.Y.

PAUL H. HOCH, M.D.; 1963 Commissioner of Mental Health, Albany, N.Y.

ALLEN D. MILLER, M.D.; 1966 Commissioner of Mental Health, Albany, N.Y.

OSCAR K. DIAMOND, M.D.; 1963 Director of Manhattan State Hospital, Ward's Island, New York, N.Y.

O. SIMOR, M.D.; 1963 Consulting psychiatrist at Myer Building, Manhattan State Hospital, Ward's Island, New York, N.Y.

———————— TURNS, M.D.; Consulting psychiatrist at Myer Building, Manhattan State Hospital, Ward's Island, New York, N.Y.

VLADMIR JANCAR, M.D.; Consulting psychiatrist at Myer Building, Manhattan State Hospital, Ward's Island, New York, N.Y.

———————— AMIEL, M.D.; 1963 Consulting psychiatrist at Myer Building, Manhattan State Hospital, Ward's Island, New York, N.Y.

———————— HECHT, M.D.; 1963 physician at Myer Building, Manhattan State Hospital, Ward's Island, New York, N.Y.

ISRAEL KESSELBRENNER, M.D.; 1963 Consulting psychiatrist at Myer Bldg., Manhattan State Hospital, Ward's Island, New York, N.Y.

———————— CRANENDAND, M.D.; 1963 physician at Myer Bldg., Manhattan State Hospital, Ward's Island, New York, N.Y.

———————— VERSTEEF, M.D.; 1963 Consulting psychiatrist at Myer Bldg., Manhattan State Hospital, Ward's Island, New York, N.Y.

JOHN B. RILEY, M.D.; 1966 Consulting psychiatrist to the Special and Secret Court at Kings County Hospital, Psychiatric Division, Washington.

JACK J. KLEIN, M.D.; 1966 Consulting psychiatrist to the Special and Secret Court at Kings County Hospital, Psychiatric Division, Seattle, Washington.

FREDERICK M. PETERS, M.D.; Clinical Psychiatrist at Fort Steilacoom, Western State Hospital, Washington.

A —————— ARENAS, M.D.; 1966 Consulting psychiatrist at Fort Steilacoom, Western State Hospital, Washington.

GIULIO DI FURIA, M.D.; 1966 Superintendent at Fort Steilacoom, Western State Hospital, Washington.

STANLEY F. YOLIES, M.D.; U.S. Department of Health, Education, and Welfare.

Public Health Service
Health Services and Mental Health Administration.
National Institute of Mental Health, DIRECTOR. 5600 Fishers Lane
Rockville, Maryland, 20852

COUNT ONE—THE COMMON DESIGN OR CONSPIRACY

1. Between April 24, 1963 and the present date, all of the defendants herein acting pursuant to a common design, unlawfully, willfully, and knowingly did conspire and agree together and with each other and with diverse other persons, to commit unlawful activities against the Plaintiff and others; as well as crimes against humanity, as defined in the opening paragraphs above.

2. Throughout the period covered by this Civil Action Complaint, all of the defendants herein, acting in concert with each other and with others, unlawfully, willfully, and knowingly were principles in, accessories to, ordered,

abetted, took a consenting part in, and were connected with plans and enterprises involving unlawful activities against the Plaintiff and others; as well as, crimes against humanity.

3. All of the Defendants herein, acting in concert with others for whose acts the Defendants are responsible, unlawfully, willfully, and knowingly participated as leaders, organizers, investigators, and accomplices in the formulation and execution of the said common design, conspiracy, plans, and enterprises to commit, and which involved the commission of unlawful activities against the Plaintiff and others; as well as, crimes against humanity.

4. It was a part of the said common design, conspiracy, plans and enterprises to involuntarily inflict disease (mental) upon State Hospital inmates, and other living human subjects, without their consent; in the course of which experiments the defendants committed brutalities, cruelties, tortures, atrocities, and other inhuman acts, more fully described in counts two, and three of this Civil Action Complaint.

5. The said common design, conspiracy, plans, and enterprises embraced the commission of unlawful activities against the Plaintiff and others; as well as, crimes against humanity, as set forth in counts two and three of this Civil Action Complaint; in that the Defendants unlawfully, willfully, and knowingly encouraged, aided, abetted, and participated in the subjection of the Plaintiff and others, to brutalities, cruelties, tortures, atrocities, and other inhuman acts.

COUNT TWO—CONSTITUTIONAL CRIMES

6. Between April 24, 1963 and the present date, all of the Defendants herein unlawfully, willfully, and knowingly committed Constitutional violations, as defined in the U.S. Constitution and State Constitutions, set forth in the opening paragraphs above, and are incorporated herein by reference, in that they were principles in, accessories to, ordered, abetted, took a consented part in, and were connected with plans and enterprises involving the infliction of disease (mental) without the subjects consent, upon the Plaintiff and others, in the course of which experiments the Defendants committed brutalities, cruelties, tortures, atrocities, and other inhuman acts. Such involuntary infliction of disease (mental) included, but were not limited to the following:

(A) At their internationally famous Bellevue Hospital, New York, N.Y. involuntary experiments were conducted on the Plaintiff for the benefit of members of depraved, or unlawful governmental medical practices. Experiments consisted of, but were not limited to, involuntary dosages of U.S. manufactured 3-Ring compounds (phenothiazines); as well as dietary experiments. These experiments were carried out in the guise of necessary medication after the involuntary infliction of disease (mental); which disease was to be treated scientifically, or corrected on the involuntary subject. As a result of these experiments, Plaintiff suffered grave injury, torture, and ill treatment. The Defendants White, Lytle, Wyman, and others are charged with special responsibility for, and participation in these unlawful activities.

(B) At their historic Ward's Island Pavilion for the Insane (M.S.H.), off 125th Street, Manhattan, N.Y.C.; involuntary experiments were conducted on the Plaintiff for the benefit of members of depraved, or unlawful governmental medical practices. Experiments consisted of, but were not limited to, involuntary disages of U.S. manufactured 3-Ring compounds (phenothiazines); carried out in the guise of necessary medication after the involuntary infliction of disease (mental), which disease was to be treated scientifically, or corrected on the involuntary subject. These included, but were not limited to, involuntary dietary experiments and peonage. As a result of these involuntary experiments, Plaintiff suffered grave injury, torture, and ill treatment. The Defendants Turns, Jancar, Cranendand, Simor, Diamond, Amiel, Kesselbrenner, Hecht, Miller, Versteef, and others are charged with special responsibility for and participation in these unlawful activities.

(C) At Fort Steilacoom (W.S.H.), Washington state, involuntary experiments were conducted on the Plaintiff for the benefit of members of depraved, or unlawful governmental medical practices. Experiments consisted of, but were not limited to, involuntary dosages of U.S. manufactured 3-Ring compounds (phenothiazines); carried out in the guise of necessary medication after the involuntary infliction of disease (mental), which disease was to be treated scientifically, or corrected on the involuntary subject. These included, but were not limited to, involuntary dietary experiments and peonage. As a result of these involuntary experiments, Plaintiff suffered grave injury, torture, and ill treatment. The Defendants Conte, Riley, Kleinn, Arenas, Peters, di Furia, and others are charged with special responsibility for and participation in these unlawful activities.

7. On Friday, September 2nd., 1966, the Defendants Riley and Klein unlawfully, willfully, and knowingly committed Constitutional Crimes, as defined in the U.S. Constitution and Washington State Constitutions, set forth in the opening paragraphs above, which are incorporated herein by reference; in that they were principles in, accessories to, ordered, abetted, took a consenting part in, and were connectesd with plans and enterprises involving the internment of this Plaintiff and others as fit subjects for involuntary experimentation with U.S. manufactured 3-Ring compounds (phenothiazines), at Fort Steilacoom (W.S.R.). This was while Plaintiff was in custody at King County Hospital, Seattle; and was immediately followed by an Order from their Special and Secret Court for King County, Seattle, Washington. This Plaintiff and others were officially diagnosed as diseased (mentally), with incurable (chronic) schizophrenia (paranoid type). On the sworn statements of all Defendants and others, as the lawful grounds for insuring the health and welfare of residents in the United States generally, and Washington State in particular, this Plaintiff and others were so interned at their Fort Steilacoom (W.S.H.) as fit subjects for involuntary experimentation. There, Plaintiff and others were to be, and were considered as fit and involuntary subjects for experimental purposes with U.S. manufactured 3-Ring compounds (phenothiazines). These included, but were not limited to, involuntary dietary experiments and peonage.

8. Between April 24, 1963 and July 29, 1963, the Defendants White, Lytle, Turns, Jancar, Simor, Hecht, Diamond, Kesselbrenner, Amiel, Hoch, Wyman, Cranendand, Versteef, and others, unlawfully, willfully, and knowingly committed Constitutional crimes as defined by the U.S. Constitution and the New York Constitution, set

forth in the opening paragraphs above, and incorporated herein by reference; in that they were principles in, accessories to, ordered, abetted, took a consenting part in, and were connected with plans and enterprises involving the imposing of Draconic laws in the so-called "mental health" activities of the United States and New York State, in the course of which the Defendants herein interned this Plaintiff as a fit subject for involuntary experimentation. This was at their internationally famous Bellevue Psychiatric Hospital, and their historic Ward's Island Pavilion for the Insane (M.S.H.); while this Plaintiff was in custody in their Bellevue Psychiatric Hospital, and was immediately followed by an Order from their Special and Secret Court for New York State. These unlawful activities involved, but were not limited to, Special and Secret Court proceedings designed to prevent this Plaintiff from presenting any adequate defense against these members of depraved, or unlawful governmental medical practices. This Plaintiff was officially diagnosed as diseased (mentally) with severe (guarded) schizophrenia (paranoid type). On the sworn statements of the Defendants, as the lawful grounds for insuring the health and welfare of residents in the United States generally, and New York State in particular, the Plaintiff was so interned at their Bellevue Psychiatric Hospital and their Manhattan State Hospital, as a fit subject for involuntary experimentation. There, the Plaintiff was to be, and was an involuntary subject for their experimentation purposes with U.S. manufactured 3-Ring compounds (phenothiazines), etc. These included, but were not limited to, involuntary dietary experiments and peonage.

9. Between April 24, 1963 and the present date, the Defendants Conte, Riley, Klein, di Furia, Peters, Arenas, Lytle, Jancar, Turns, Diamond, Simor, Amiel, Kes-

selbrenner, Cranendand, Hecht, Hoch, Versteef, Miller, Wyman, White, and others, willfully, and knowingly committed Constitutional crimes, in that they were principles in, accessories to, ordered, abetted, took a consenting part in, and were connected with plans and enterprises involving the imposing of Draconic laws in their "Mental Health" government medical practices of the United States, New York State, and Washington State. These depraved, or unlawful governmental medical practices involved depraved report writings about the Plaintiff and others, involuntary infliction of disease (mental), fanciful and false pretenses at scientific or professional medical standings, involuntary experimentation with U.S. manufactured 3-Ring compounds (phenothaizines), etc.; in the course of which the Defendants herein interned this Plaintiff and others as fit subjects for involuntary medical experimentations, peonage, etc. These depraved, or unlawful governmental medical practices involved willful, malicious, secret and libelous proceedings, presided over by Special and Secret Courts in New York and Washington States. Absolutely nothing that could even be called a token defense was permitted to this Plaintiff and others. The Defendants named herein are charged with using their office and exercising their power with the knowledge and intent that their official acts would result in, but were not limited to, involuntary infliction of disease (mental), involuntary experimentation with U.S. manufactured 3-Ring compounds, further depraved and libelous report writings, involuntary servitude, and dietary experimentation.

10. The said Constituitional crimes constitute violations of the U.S., Constitution, the New York State Constitution, and the Washington State Constitution; as well as, the principles of the Law of Nations. These crimes

also constitute violations of International Common Law, and the general principles of criminal law as derived from the criminal law of all civilized nations.

COUNT THREE—CRIMES AGAINST HUMANITY

11. Between April 24, 1963 and the present date, all of the Defendants herein unlawfully, willfully, and knowingly, committed crimes against humanity, as defined in the opening paragraphs above, in that they were principles in, accessories to, order, abetted, took a consenting part in, and were connected with plans and enterprises involving medical experiments, without the subjects consent, upon the Plaintiff and others; in the course of which experiments the Defendants committed brutalities, cruelties, tortures, atrocities, and other inhuman acts. The particulars concerning such experiments are set forth in paragraph 6, of count two of this Civil Action Complaint and are incorporated herein by reference.

12. On Friday, September 2nd., 1966, the Defendants Riley and Klein, unlawfully, willfully, and knowingly committed crimes against humanity, in that they were principles in, accessories to, ordered, abetted, took a consenting part in, and were connected with plans and enterprises involving involuntary experimentation, peonage, etc. The particulars concerning such unlawful activities are set forth in paragraph 7 of count two of this Civil Action Complaint, and are incorporated herein by reference.

13. Between April 24, 1963 and July 29, 1963, the Defendants Lytle, White, Simor, Hoch, Diamond, Turns, Jancar, Amiel, Hecht, Cranendand, Versteef, Wyman, and others unlawfully, and knowingly, committed crimes against humanity, in that they were principles in, acces-

sories to, ordered, abetted, took a consenting part in, and were connected with plans and enterprises involving involuntary experimentation on the Plaintiff. The particulars concerning such unlawful activities and inhuman treatment are set forth in paragraph 8 of count two of this Civil Action Complaint, and are incorporated herein by reference.

14. Between April 24, 1966 and the present date, the Defendants Conte, Riley, Klein, di Furia, Peters, Arenas, Lytle, Jancar, Turns, Diamond, Simor, Amiel, Kesselbrenner, Cranendand, Hecht, Hoch, Versteef, Miller, Wyman, White, and others, unlawfully, willfully, and knowingly, committed crimes against humanity; in that they were principles in, accessories to, ordered, abetted, took a consenting part in, and were connected with plans and enterprises imposing Draconic laws in the so-called "Mental Health" medical practices of the United States, New York State, and Washington State. The particulars concerning such unlawful activities are set forth in paragraph 9 of count two of this Civil Action Complaint, and are incorporated herein by reference.

15. The said crimes against humanity constitute violations of International Common Law, the general principles of criminal law as derived from the criminal laws of all civilized nations; the internal penal laws of the States in which such crimes were committed, which includes the United States Constitution, the New York State Constitution, and the Washington State Constitution.

For these atrocities, this Plaintiff is claiming personal and vicarious liability of $500,000 from each Defendant named herein, as well as, the return of the aforesaid gun and Federal Registration. Holding with the precedent

cases, collective and State liability does not apply; and any and all statutes of limitations, immunities, and pardons are tolled.

Wherefore, this Civil Action Complaint is filed with the Clerk of the United States District Court, Western District of Washington, Seattle, Washington; and the charges herein made against the above named Defendants are hereby presented to the said United States District Court.

Dec. 20, 1979

s/HERBERT A. COCHRANE
HERBERT A. COCHRANE, *Pro Se.*
Plaintiff
P. O. Box #71-G
Greystone Park
N. J. 07950

Dismissal From Seattle District Court.

Filed in the
United States District Court
Western District of Washington
(Stamp) Nov. 24, 1988
Bruce Rifkin, Clerk
By (illegible initials) Deputy

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
Office of the Clerk
308 U.S. Courthouse
Seattle, Washington 98104

November 24, 1980

Herbert A. Cochrane
Roger A. Gerdes
Judge Sharp

HERBERT A. COCHRANE,

Plaintiff,

vs.

WILLIAM R. CONTE, *et al.*,

Defendant.

Civil Action No. C80-14S

Dismissal From Seattle District Court.

There was filed and entered on the Docket November 24, 1980. An order and Judgment.

Sincerely,

BRUCE RIFKIN, Clerk
By (Illegible)

Deputy Clerk

Dismissal From Seattle District Court.

Judgment.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

No. C80-14S

HERBERT A. COCHRANE,

Plaintiff,

v.

WILLIAM R. CONTE, *et al.*,

Defendants.

This matter having come on for consideration before the Court, Honorable Barbara J. Rothstein, presiding, and the issues having been duly considered and a decision having been duly rendered,

IT IS HEREBY ORDERED AND ADJUDGED that: (1) The Federal causes of action in plaintiff's complaint are dismissed as against all defendants with prejudice; and (2) Plaintiff's causes of action under the Constitutions of the State of Washington and the State of New York are dismissed as against all defendants without prejudice to refile in an appropriate forum.

Dismissal From Seattle District Court.

Dated at Seattle, Washington this 24th day of November, 1980.

s/BETTY FLEMING
Deputy Clerk, U.S. District Court

Dismissal From Seattle District Court.

Order Granting Defendant Giulio Di Furia's Motion to Dismiss.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

No. C80-14S

HERBERT A. COCHRANE,

Plaintiff,

vs.

WILLIAM R. CONTE, *et al.*,

Defendants.

This cause comes before the Court on defendant Giulio Di Furia's Motion to Dismiss. Having considered the motion, pleadings, and memoranda filed herein, and being fully advised, the Court rules as follows:

Plaintiff alleges that defendants conspired to commit and did commit depraved or unlawful medical practices upon the plaintiff in violation of U. S. Const. art. I, § 8, cl. 10. This clause only empowers Congress to enact legislation "defin[ing] and punish[ing] . . . Offenses against the Law of Nations;" it does not provide plaintiff with a basis for relief. Plaintiff has therefore failed to state a claim upon which relief can be granted. Fed. R. Civ. P.

12(b) (6). Defendant's motion to dismiss this claim is GRANTED as against all defendants.

Plaintiff claims that the same alleged conspiracy violated the Supremacy Clause, U. S. Const. art. VI, § 2. This clause does not provide plaintiff with a basis for relief. Defendant's motion to dismiss this claim is GRANTED as against all defendants. Fed. R. Civ. P. 12(b)(6).

Plaintiff claims that the same alleged conspiracy violated U. S. Const. amends. IV; V; VI; VII; XIII, § 1; and XIV, § 1. Construing plaintiff's complaint in the light most favorable to plaintiff, the Court finds that plaintiff has failed to state a claim upon which relief can be granted. Fed. R. Civ. P. 12(b)(6); *Scheuer v. Rhodes,* 416 U.S. 232, 236 (1974); *Conley v. Gibson,* 355 U. S. 41, 45-46 (1957). Defendant's motion to dismiss these claims is GRANTED as against all defendants.

Plaintiff claims that the same alleged conspiracy violated U. S. Const. amend. IX. This amendment does not provide plaintiff with a basis for relief. Defendant's motion to dismiss this claim is GRANTED as against all defendants. Fed. R. Civ. P. 12(b)(6).

Plaintiff claims that the same alleged conspiracy violated 18 U.S.C. §§ 921 *et seq*. This is a criminal statute and therefore does not provide a basis for plaintiff's civil action. Defendant's motion to dismiss this claim is GRANTED as against all defendants.

There are no remaining federal questions raised in plaintiff's complaint, and no other ground for federal jurisdiction has been stated. Accordingly, the balance of plaintiff's claims under the Constitution of the State of Washington and the Constitution of the State of New York are DISMISSED as against all defendants. Fed. R. Civ. P. 12(b)(1).

IT IS SO ORDERED.

Dismissal From Seattle District Court.

The Clerk of this Court is directed to enter judgment as follows: (1) The Federal causes of action in plaintiff's complaint are dismissed as against all defendants with prejudice; and (2) Plaintiff's causes of action are under the Constitutions of the State of Washington and the State of New York are dismissed as against all defendants without prejudice to refile in an appropriate forum.

The Clerk shall also send uncertified copies of this Order to all counsel of record and to plaintiff Herbert A. Cochrane.

DATED at Seattle, Washington, this 24th day of November, 1980.

s/BARBARA J. ROTHSTEIN
United States District Court

Reversal and Remand From The Ninth C.C.A.

A True Copy
Attest
(Stamp) May 2, 1983
Phillip B. Winberry
Clerk of Court
By: s/ D.M. Nizera
Deputy Clerk

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

HERBERT A. COCHRANE,

Plaintiff-Appellant,

vs.

WILLIAM R. CONTE, M.D., *et al.*,

Defendants-Appellees.

No. 81-3001
DC CV 80-14 BJR

Appeal from the United States District Court for the Western District of Washington (Seattle)

This cause came on to be heard on the Transcript of the Record from the United States District Court for the Western District of Washington (Seattle) and was duly submitted.

Reversal and Remand From The Ninth C.C.A.

On Consideration Whereof, It is now here ordered and adjudged by this Court, that the judgment of the said District Court in this Cause be, and hereby is reversed and remanded.

Filed and entered April 08, 1983

Reversal and Remand From The Ninth C.C.A.

Memorandum.

DO NOT PUBLISH

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

HERBERT A. COCHRANE,

Plaintiff-Appellant,

vs.

WILLIAM R. CONTE, M.D., *et al.*,

Defendants-Appellees.

No. 81-3001
DC No. C80-14S

Submitted—January 26, 1983*

Decided—April 8, 1983

Appeal from the United States District Court
for the Western District of Washington
Barbara J. Rothstein, District Judge, Presiding

*The panel unanimously agrees that this case may be submitted without oral argument.

Reversal and Remand From The Ninth C.C.A.

Before:

Duniway, Fletcher and Ferguson, Circuit Judges.

The complaint is a classic example of a violation of simple rules of pleading required by Rule 8 of the Federal Rules of Civil Procedure. It alleges separate causes of action against medical personnel in the states of Washington, New York and Maryland. In its present form the complaint is unmanageable, and the district court was correct in dismissing without prejudice all allegations against the non-Washington defendants.

The court was in error, however, in dismissing the action with prejudice against the Washington defendants.

The basic allegation against the Washington defendants is that the plaintiff had been the involuntary subject of experimental drug treatment at the state hospital in violation of the fourteenth amendment. Civilly committed plaintiffs may state a cause of action under the fourteenth amendment for being subjected to involuntary drug treatment. *Mills v. Rogers,* ____ U.S. ____, 102 S.Ct. 2442 (1982). *See Mackey v. Procunier,* 477 F.2d 877 (9th Cir. 1973), where he held that in such a case the eighth amendment supported a civil rights violation.

It may be that the plaintiff's claims are barred by the statute of limitations. Section 1983 actions in Washington are subject to the three-year statute of limitations provided in Wash. Rev. Code § 4.16.080(2). *Rose v. Rinaldi,* 654 F.2d 546 (9th Cir. 1981).

The plaintiff was released from Washington's Western State Hospital in 1970 and his complaint was filed in 1980. However, Wash. Rev. Code § 4.16.190 provides that statutes of limitations are tolled by mental incompetency.

The record shows that the plaintiff has been in and out of mental hospitals, and may in fact be in one at the present time. The district court made no findings on the issue

of tolling, and the case is remanded for such a determination.

The Washington defendants assert that the dismissal was proper because the plaintiff has not shown that he is now legally competent. Even if Cochrane lacks capacity to sue under the law of his domicile, *see* Fed. R. Civ. P. 17(b) (capacity of individual to sue in federal court is determined by law of domicile), the court should appoint a guardian ad litem or otherwise act to protect the incompetent plaintiff rather than dismiss for lack of jurisdiction, *see* Fed. R. Civ. P. 17(c); *Downs v. Department of Public Welfare,* 368 F. Supp. 454, 466 (E.D. Pa. 1973).

The defendants' contention that the plaintiff cannot simultaneously contend that his commitment was improper and the statute of limitations should be tolled is without merit for the reason that the plaintiff does not contest his commitment; he contests only his treatment.

Reversed and Remanded.

Reversal and Remand From The Ninth C.C.A.

Clerk's Memoranda.

U.S. COURT OF APPEALS
FOR THE NINTH CIRCUIT

Appeal from U. S. District Court C80-14S
Western District of Washington (Seattle)

Nature: Civil—Before Whom Heard in Court Below: Hon. Rothstein

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HERBERT A. COCHRAN,

Plaintiff-Appellant,

vs.

WILLIAM R. CONTE, M.D., *et al.*,

Defendants-Appellees.

Names and Addresses of Counsel

Counsel for Appellant/Petitioner: Aplt/Pet: Pro Per Herbert A. Cochran, P.O. Box #71-G, Greystone Park, New Jersey 07950-9071, *9-2-81*

Counsel for Appellee/Respondent: Aple/Resp: Roger A. Gerdes, AAG, 1366 Dexter Horton Bldg., Seattle, WA 98104, Tele: 206/464-7353

Another Dismissal Order From the Seattle District Court.

Entered
On Docket
(Stamp) Mar. 27, 1986
By Deputy
(Illegible Initials)

(Illegible Initials) ____ Filed
____ Lodged
____ Received
(Stamp) Jul. 23, 1985
At Seattle
Clerk U.S. District Court
Western District of Washington
By Deputy

(Illegible Initials) ____ Filed
____ Lodged
____ Received
(Stamp) Mar. 27, 1986
At Seattle
Clerk U.S. District Court
Western District of Washington
By Deputy

Another Dismissal Order From the Seattle District Court

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

HERBERT A. COCHRANE,

Plaintiff,

vs.

WILLIAM R. CONTE, *et al.*,

Defendant.

Case No. C80-14M

The Court, having reviewed the Report and Recommendation of United States Magistrate and the balance of the record, does hereby find and Order:

(1) The Court adopts the Report and Recommendation;

(2) The plaintiff's federal claims against the Washington defendants are Dismissed, with prejudice, for lack of subject matter jurisdiction;

(3) This action is Dismissed; and

(4) The Clerk of Court is directed to send copies of this Order to Cochrane, to counsel for defendants, and to Magistrate Weinberg.

Dated this 27th day of March, 1986.

s/WALTER T. McGOVERN
Chief United States District Judge

Another Dismissal Order From the Seattle District Court

Judgment.

Entered
on Docket
(Stamp) Mar. 27, 1986
By Deputy (illegible initials)

(Illegible Initials ____ Filed
____ Lodged
____ Received
(Stamp) Mar. 27, 1986
At Seattle
Clerk, U.S. District Court
Western District of Washington
By Deputy

Another Dismissal Order From the Seattle District Court

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

HERBERT A. COCHRANE,

Plaintiff,

vs.

WILLIAM R. CONTE, *et al.*,

Defendants.

Case No. C80-14M

This matter having come on for consideration before the Court, Honorable Walter T. McGovern, Chief United States District Judge, presiding, and the issues having been duly considered and a decision having been duly rendered,

IT IS HEREBY ORDERED AND ADJUDGED, that this action is hereby dismissed.

Dated this 27th day of March, 1986.

s/JOHN A. McLELLON
Deputy United States District Clerk

Denial Order From the Ninth C.C.A.

Filed
(Stamp) Oct. 1, 1987
Cathy A. Catterson, Clerk
U.S. Court of Appeals

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

HERBERT A. COCHRANE,
Plaintiff-Appellant,
vs.
WILLIAM R. CONTE, M.D., *et al.*,
Defendants-Appellees.
No. 86-3812
DC# CV-80-14-M
Western Washington
(Seattle)

Before: ,

Anderson, Circuit Judge

Appellant's "emergency motion to stay all proceedings" and appellant's "motion to replace plaintiff's moving papers" are denied. Appellant's reply brief has been filed. The necessary copies are maintained in the court. There is no need to replace appellant's brief.

This appeal is ready for calendaring.

1-J 9/9/87

Dismissal Order From the Ninth C.C.A.

*Memorandum.**

Filed
(Stamp) Jan. 22, 1988
Cathy A. Catterson, Clerk
U.S. Court of Appeals

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

HERBERT A. COCHRANE,

Plaintiff-Appellant,

v.

WILLIAM R. CONTE, *et al.*,

Defendants-Appellees.

No. 86-3812
D.C. No. C80-14M

Appeal from the United States District Court
for the Western District of Washington
Walter T. McGovern, District Judge Presiding

Submitted: November 27, 1987**

*This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

**The panel finds this case appropriate for submission without argument pursuant to 9th Cir. R. 34-4 and Fed. App. p. 34(a).

Dismissal Order From the Ninth C.C.A.

Before:

Fletcher, Reinhardt and Brunetti, Circuit Judges

Herbert Cochrane filed a complaint in the District Court for the Western District of Washington alleging that various persons had violated his civil rights. The district court dismissed the complaint for lack of subject matter jurisdiction. On appeal we held, in an unpublished decision, that the action should not have been dismissed against the Washington State defendants. We concluded that Cochrane might have stated a cause of action under 42 U.S.C. § 1983, that the Washington statute of limitations is tolled by mental incompetency, and that it might have been so tolled in this case. On remand, the district court again dismissed for lack of subject-matter jurisdiction. Herbert Cochrane appeals this decision *pro se.*

Cochrane cites, a long series of statutes as possible bases of jurisdiction. None of the statutes he cites offers a sufficient basis for bringing his claim in a federal court. The one statute under which the federal courts might have jurisdiction over his claim, 42 U.S.C. § 1983, Cochrane has explicitly refused to rely upon. He has remained determined in his refusal even after both this court and, on remand, the magistrate indicated that section 1983 would be a proper, and probably the only, basis for federal jurisdiction. Under these circumstances, the district court was correct to dismiss for lack of subject-matter jurisdiction.

Petition for Rehearing *En Banc* (F.R.A.P. 40).*

Herbert A. Cochrane, *Pro Se.*
P.O. Box #9071
Greystone Park
N.J. 07950.

UNITED STATES COURT OF APPEALS
FOR THE
NINTH CIRCUIT

HERBERT A. COCHRANE, *Pro Se.*,

Plaintiff-Appellant,

vs.

WILLIAM R. CONTE, *et al.*,

Defendants-Appellees.

Civil No. 86-3812
D.C. No. C 80-14 M
D.C.: Western Washington at Seattle

Absolutely none of the issues presented by this Plaintiff-Appellant were particularized in the dismissing Memorandum of January 22, 1988. Quite simply, these issues were completely ignored; which silence demonstrates that the issues presented by this Plaintiff-Appellant are un-impeachable. With such a state of mind presenting this

*The Judgment and Opinion being appealed from is annexed as the last two (2) pages of this Petition.

Judgment and Opinion, it can be logically concluded that no material point of fact or law presented by this Plaintiff-Appellant was ever considered in the decision making process by the Tribunal. Plaintiff-Appellant must therefore respectfully disagree with this one-sided Opinion and Judgment. Hence, this is not merely a rearguing of the case, but further particularization on the facts of the matter, as genuine issues.

The first page of the January 22, 1988 Memorandum restricts the Washington State proceeding to Washington State Defendants. There is no argument with this whatsoever; however, the top of the second page mentions a fact which is applicable to all States, as far as this Plaintiff-Appellant knows. This refers to the "accrual date", which date, of course, should be determined by the Trial Court. Absolutely no Court, Trial or otherwise, has ever determined such a date for this Plaintiff-Appellant.

Ergo Quid? Statutes of limitations covering mental disabilities are tolled everywhere until an "accrual date" is established by a Court. In other words, the Statute of Limitations for this Plaintiff-Appellant is continuously tolled, with or without 42 U.S.C. § 1983. 42 U.S.C. § 1983 is not required for tolling in the instant case. R.C.W.A. 4.16.180, amended by Laws 1st. Ex. Sess. 1971, ch. 292 § 74; Laws 1st. Ex. Sess. 1977, ch. 80 § 2; which is the specific Washington State tolling Statute. Maybe, the Ninth C.C.A. can inform everyone of the "accrual date".

Specific reference to 42 U.S.C. § 1983 is mentioned in Plaintiff-Appellant's Brief page 3, lines 19 to 26; continued on to page 4, lines 1 to 7. These are the facts of the matter, and not what is set forth in the second and last paragraph on page 2 of the Opinion and Judgment of January 22, 1988. Another reference to the facts of the matter is found on page 87-E, lines 9 to 10 of Excerpt of Record, Vol. 2 (No. 86-3812).

Further reference to 42 U.S.C. § 1983 is found on page 9, lines 17 to 22 of Plaintiff-Appellant's Brief. Again, these are the facts of the matter, which are not at all expressed in the Judgment and Opinion Memorandum of January 22, 1988. Also see: *Cochrane vs. Peters, No. 86-2454,* Brief page 25. This genuine issue of fact and law is also discussed on pages 24, 26, 27, and 28 of this Brief.

Again, from the last paragraph; Memorandum January 22, 1988.

> Cochrane cites, a long series of statutes as possible basis of jurisdiction. None of the statutes he cites offers a sufficient basis for bringing his claim in a Federal Court.

Their reference is obviously from page -iv- of the Table of Contents in Plaintiff-Appellant's Brief. The Authorities, Citations, and Court Rules are simply ignored by the Tribunal of January 22, 1988.

One will observe on this page -iv-, at the very top of the page, and leading the "long series of statutes as possible basis of jurisdiction"; is a gravamen, if not, the gravamen of the case itself. This "statute" is 18 U.S.C. § 921, *et sequitur.* This gravamen of the case is set forth quite candidly in Excerpt of Record, Volume 2 (86-3812); page 116-E, lines 21 to 26, page 117-E, lines 1 to 10. Also see: *Cochrane vs. Peters, No. 86-2454,* Brief pages 21 to 23.

To assure the Ninth C.C.A. that an Amended Complaint was filed and served, the case of *Cochrane vs. Peters, No. 86-2454* (Phoenix, Arizona), is filed with the Ninth C.C.A. The Excerpt of Record for that case contains a copy of the Amended Complaint against Defendant Peters, since deceased. This is located on pages 1-E to 8-E. The gravamen of that case is indicated on page 1 of that Phoenix, Arizona Brief, lines 19 to 23. "Things hav-

ing been adjudicated", according to the record of the proceedings in Seattle, actually never took place in Seattle.

The preponderance of evidence against the State Courts below clearly indicate removal to Federal Court; especially since some of the Defendants are no longer licensed to practice medicine, and 18 U.S.C. § 921, *et sequitur* evidently does not refer to Juvenile Hall.

Not only did the Seattle District Court ignore Plaintiff-Appellant's Motion to Strike, but the District Court there never even presented the opportunity for a Motion to Amend the Complaint, or process Orders for Written Instruments.

It should also be remembered that this Plaintiff-Appellant was at a great disadvantage in the preparation of this Petition for Rehearing, since spoliation of his records by the Court prevented an adequate defense or prosecution of the case.

The spoliation of the record by the Court is documented by their communication of October 1, 1987. Plaintiff-Appellant's documentation of this spoliation of the record by the Court are dated as of August 24, 1987.

John Henry Wigmore, the acknowledged authority, presents views and citations governing such spoliation in the following volumes:

Volume 2. (1940): § 267, page 95.
" " " : § 277, pages 119 to 126 (§ 279).
" " " : § 284, pages 162 to 166.
" " " : § 291, pages 180 to 187.

Page 186: Add to this that no one who withholds evidence can be in any sense a fit object of clemency or protection. The truth is that there is no reason why the utmost inference logically possible should not be allowable, namely, that the contents of the document (when desired by the opponent) **ARE** what he alleges them to be, or (when naturally a part of the possessors's case) **ARE NOT** what he alleges them to be.

Volume 2. (1940): § 302, pages 196 to 206.
" 4. " : § 1197, pages 454 to 460 (§ 1198).
" " " : § 1207, pages 476 to 477.
" " " : § 1209, pages 483 to 485 (§ 1210).

When both Memorandums are placed in juxtaposition, there is a most remarkable and completely contradictory presentation. The contrast is similar to black and white.

The first Memorandum is dated as of April 8, 1983 and is found in Plaintiff-Appellant's Excerpt of Record, Volume 2, *Cochrane vs. Conte (No. 86-3812)*, pages 6-E and 122-E.

The second Memorandum is dated as of January 22, 1988, and since it is only of 2 pages long, it is annexed to the back of this Petition for Rehearing *En Banc*.

The contrast is so astonishing that one is led to believe that outside influences might be involved. There was a noteworthy visit to San Francisco by New York City Mayor Edward Koch (Foley Square), and New York Governor Mario Cuomo (Holland Avenue), before January

22, 1988. After these worthies departed, spoliation of the record commenced, then came the January 22, 1988 Memorandum. These appear to the Plaintiff-Appellant to be a most remarkable series of events, that could have some bearing on the matter; especially, when one considers the fact that a member of the Ninth C.C.A. was recently appointed to the U.S. Supreme Court. His name is evidently Anthony Kennedy, L.L.D. Any accidental nature appears to be a rather remote possibility to this Plaintiff-Appellant.

A further observation on page 1 of both Memorandums indicate Tribunals composed of completely different members; although, in the January 22, 1988 Memorandum, the term, "we", is utilized at the bottom of page 1. Therefore, this Petition for Rehearing is presented *En Banc,* so that the term "we", has precise meaning.

February 5, 1988

Respectfully submitted,

s/HERBERT A. COCHRANE
HERBERT A. COCHRANE, Pro Se.
Plaintiff-Appellant
P.O. Box #9071
Greystone Park
N.Y. 07950

Petition for Rehearing En Banc (F.R.A.P. 40)

*Memorandum.**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

HERBERT A. COCHRANE,

Plaintiff-Appellant,

v.

WILLIAM R. CONTE, *et al.*,

Defendants-Appellees.

No. 86-3812
D.C. No. C80-14M

Appeal from the United States District Court
for the Western District of Washington
Walter T. McGovern, District Judge Presiding

Submitted: November 27, 1987**

Before:

Fletcher, Reinhardt and Brunetti, Circuit Judges

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Petition for Rehearing En Banc (F.R.A.P. 40)

Herbert Cochrane filed a complaint in the District Court for the Western District of Washington alleging that various persons had violated his civil rights. The district court dismissed the complaint for lack of subject matter jurisdiction. On appeal we held, in an unpublished decision, that the action should not have been dismissed against the Washington State defendants. We concluded that Cochrane might have stated a cause of action under 42 U.S.C. § 1983, that the Washington statute of limitations is tolled by mental incompetency, and that it might have been so tolled in this case. On remand, the district court again dismissed for lack of subject-matter jurisdiction. Herbert Cochrane appeals this decision *pro se*.

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(Stamp) Filed
Jan. 22, 1988
Cathy A. Catterson, Clerk
U.S. Court of Appeals

En Banc Petition Denied by the Ninth C.C.A.

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

HERBERT A. COCHRANE,

Plaintiff-Appellant,

v.

WILLIAM R. CONTE, *et al.*,

Defendants-Appellees.

No. 86-3812
D.C. No. C80-14M

Before:

Fletcher, Reinhardt and Brunetti, Circuit Judges

The panel has voted to deny the petition for rehearing and to reject the suggestion for rehearing *en banc*. The full court has been advised of the suggestion for *en banc* rehearing, and no judge of the court has requested a vote on the suggestion for rehearing *en banc*. Fed. R. App. P. 35(b). The petition for rehearing is denied and the suggestion for a rehearing *en banc* is rejected.

Filed
(Stamp) Mar. 22, 1988
Cathy A. Catterson, Clerk
U.S. Court of Appeals